

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

POLAROID CORPORATION,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

C.A. No. 06-738-SLR

**HEWLETT-PACKARD COMPANY'S MOTION TO PRECLUDE THE REPORT AND  
TESTIMONY OF POLAROID'S SURVEY EXPERT WALTER MCCULLOUGH**

Defendant Hewlett-Packard Company ("HP") hereby moves for an order excluding the testimony of Walter McCullough, who conducted a survey on behalf of Polaroid Corporation, and to preclude any evidence based on the McCullough survey or on Mr. McCullough's related expert opinions. The reasons for this motion are outlined in HP's Memorandum In Support and accompanying declaration and exhibits.

Dated: May 23, 2008

FISH & RICHARDSON P.C.

By: /s/ William J. Marsden, Jr.

William J. Marsden, Jr. (#2247)  
Raymond N. Scott, Jr. (#4949)  
919 N. Market Street, Suite 1100  
Wilmington, DE 19801  
Telephone: (302) 652-5070  
Facsimile: (302) 652-0607  
Email: [marsden@fr.com](mailto:marsden@fr.com)  
[rscott@fr.com](mailto:rscott@fr.com)

CHOATE HALL & STEWART, LLP

Robert S. Frank, Jr.  
Robert M. Buchanan, Jr.  
Carlos Perez-Albuerne  
Elizabeth A. Castellani  
Two International Place  
Boston, MA 02110  
Telephone: (617) 248-5000  
Facsimile: (617) 248-4000  
Email: [rfrank@choate.com](mailto:rfrank@choate.com)  
[bbuchanan@choate.com](mailto:bbuchanan@choate.com)

MINTZ COHN FERRIS GLOVSKY &  
POPEO, P.C.

John E. Giust  
Matthew C. Bernstein  
5355 Mira Sorrento Place, Suite 600  
San Diego, CA 92121-3039  
Telephone: 858-320-3000  
Facsimile: 858-320-3001  
Email: [JGiust@mintz.com](mailto:JGiust@mintz.com)  
[MBernstein@mintz.com](mailto:MBernstein@mintz.com)

*Attorneys for Defendant and Counterclaim-  
Plaintiff Hewlett-Packard Company*

**RULE 7.1.1 CERTIFICATE**

The undersigned certifies that counsel for movants have made reasonable effort to reach agreement with the opposing attorneys on the matters set forth in the attached motion.

*/s/ William J. Marsden, Jr.*\_\_\_\_\_

William J. Marsden, Jr.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2008, I electronically filed with the Clerk of Court the foregoing document using CM/ECF which will send electronic notification of such filing(s) to the following counsel:

**Via Email**

Jack B. Blumenfeld (#1014)  
Julia Heaney (#3052)  
Morris, Nichols, Arsht & Tunnell, LLP  
1201 North Market Street  
Wilmington, DE 19899-1347  
Phone: 302-658-9200  
Fax: 302-658-3989  
Emails: [jblumenfeld@mnat.com](mailto:jblumenfeld@mnat.com); [jheaney@mnat.com](mailto:jheaney@mnat.com)

Attorneys for Plaintiff and  
Counterclaim-Defendant  
Polaroid Corporation

**Via Email**

Russell E. Levine, P.C.  
Michelle W. Skinner/David W. Higer  
Maria A. Meginnes/Courtney Holohan/C. Beasley  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601  
Phone: 312-861-2000  
Fax: 312-861-2200  
Emails: [rlevine@kirkland.com](mailto:rlevine@kirkland.com); [ggerst@kirkland.com](mailto:ggerst@kirkland.com);  
[miskinner@kirkland.com](mailto:miskinner@kirkland.com); [dhiger@kirkland.com](mailto:dhiger@kirkland.com);  
[mmeginnes@kirkland.com](mailto:mmeginnes@kirkland.com); [mmeginnes@kirkland.com](mailto:mmeginnes@kirkland.com);  
[cbeasley@kirkland.com](mailto:cbeasley@kirkland.com)

Attorneys for Plaintiff and  
Counterclaim-Defendant  
Polaroid Corporation

**Courtesy Copy Via Federal Express**

Michelle W. Skinner  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601  
Phone: 312-861-2000  
Fax: 312-861-2200

/s/ William J. Marsden, Jr.

William J. Marsden, Jr.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

POLAROID CORPORATION,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

C.A. No. 06-738-SLR

**[PROPOSED] ORDER REGARDING HEWLETT-PACKARD COMPANY'S  
MOTION TO PRECLUDE THE REPORT AND EXPERT TESTIMONY OF  
POLAROID'S SURVEY EXPERT WALTER MCCULLOUGH**

AND NOW, the Court, having considered Hewlett-Packard Company's Motion to Preclude the Report and Expert Testimony of Polaroid's Survey Expert Walter McCullough in this case and all supporting memoranda, declarations and exhibits filed by Hewlett-Packard Company and Polaroid Corporation's opposition to the motion and all supporting memoranda, declarations and exhibits,

IT IS HEREBY ORDERED that Hewlett-Packard Company's Motion to Preclude the Report and Expert Testimony of Polaroid's Survey Expert Walter McCullough is GRANTED. The testimony of Walter McCullough, who conducted a survey on behalf of Polaroid Corporation, shall be excluded from evidence at trial. Also excluded from evidence at trial are any evidence based on the McCullough survey and any evidence based on Mr. McCullough's related expert opinions.

SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2008.

---

The Honorable Sue L. Robinson